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FILED
DISTRICT COURT OF GUAM
MAR 30 2006
MARY L.M. MORAN
CLERK OF COURT

7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF GUAM
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 vs.

13 JI SUNG SHIN a.k.a. JAMES SHIN,
14

15 Defendant.
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CRIMINAL CASE NO. 01-00083

EX PARTE APPLICATION TO
WITHDRAW FROM CASE with
MEMORANDUM OF LAW and
CERTIFICATE OF SERVICE

17 EXPARTE APPLICATION TO WITHDRAW FROM CASE

18 COMES NOW court appointed counsel for Defendant JI SUNG SHIN a.k.a.
19 JAMES SHIN, to move the court pursuant to 18 U.S.C. §3006A(b) and (c) regarding other good
20 cause and Guam Rules of Professional Conduct Rule 1.7 (a)(2) regarding conflict of interest, to
21 appoint separate alternative counsel for Defendant JI SUNG SHIN a.k.a. JAMES SHIN other
22 than present counsel for the reasons and on the basis more fully set forth in the following
memorandum.

ORIGINAL

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3 MEMORANDUM OF LAW
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5 STATEMENT OF FACTS

6 Stephen P. Hattori, Assistant Public Defender does hereby respectfully request to be
7 excused from representing Defendant Shin in this court criminal matter. I am currently assigned
8 to assist in the legal representation of a multiple defendant criminal matter in the Superior Court
9 of Guam. The defendant in that case has four felony matters all of which are current. The
10 latest felony case has about five (5) co-defendants. This initial case was dismissed shortly
11 before the scheduled trial date to permit the prosecutor an opportunity to obtain a superseding
12 indictment. The superseding indictment has been issued and the matter is likely to be asserted.
13 The trial in that matter would likely take place in May.
14

15 I am concerned that my ability to effectively represent Mr. Shin would be hampered by
16 my current duties to existing clients.

17 Based on the above, and in the interest of justice, I hereby request to be excused as
18 Defendant Shin's counsel.

19 DISCUSSION OF LAW

20 RULE 1.7 CONFLICT OF INTEREST: CURRENT CLIENTS

21 (a) Except as provided in paragraph (b), a lawyer shall not represent a client if the
22 representation involves a concurrent conflict of interest. A concurrent conflict of interest exists

1 if:

2 (1) the representation of one client will be directly adverse to another client; or

3 (2) there is a significant risk that the representation of one or more clients will be
4 materially limited by the lawyer's responsibilities to another client, a former client or a third
5 person or by a personal interest of the lawyer.

6 In this case, there is a significant risk that my representation of Mr. Shin would be materially
7 limited by my existing responsibilities to current client before the Superior Court of Guam.

8 Title 18 U.S.C. §3006A(b) allows the court to appoint new counsel for Defendant Ji Sung Shin.

9 CONCLUSION The Court should appoint new counsel for Defendant Ji Sung Shin as
10 present counsel is unable to serve under the Rules of Profession Conduct and 18 U.S.C.
11 §3006A(b).

12 Dated: March 30, 2006.

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14 PUBLIC DEFENDER SERVICE CORPORATION

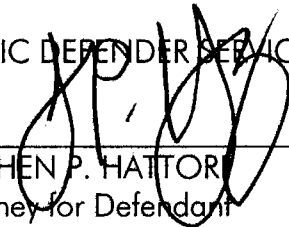
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18 STEPHEN P. HAYTORI
19 Attorney for Defendant
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I, STEPHEN P. HATTORI certify that I caused a copy of the foregoing document
her filed to be served on counsel for Plaintiff UNITED STATES OF AMERICA on April 26, 2004,
via hand delivery at the following address:

U.S. Attorney's Office
District of Guam
Criminal Division
6th Floor Sirena Plaza
108 Hernan Cortes Avenue
Hagatna, Guam 96910

Dated: March 30, 2006

PUBLIC DEFENDER SERVICE CORPORATION
By: 
STEPHEN P. HATTORI
Attorney for Defendant